IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO.400/2003
AND
FIRST APPEAL NO.196/2000

Jose Bismark Silveira,
R/o. St. Mathias, Malar,
Tiswadi, Goa. ..... Appellant.

Vs.

Special Land Acquisition Officer,
North Goa District,
(K.R.C. Ltd.,), Panaji, Goa. ..... Respondent.

Mr. A.F. Diniz, Advocate for the appellant.

Mr. E. Afonso, Advocate for the respondent.

CORAM: F.I. REBELLO, J.

DATE : JULY 18, 2003.

ORAL JUDGMENT :

While considering the Misc. Civil Application, the First Appeal itself can be disposed of. With consent of the parties, heard forthwith.

2. In Misc. Civil Application No.400/2003, the respondent seeks to produce on record a sale deed dated 16.12.1980 which, according to the respondent is adjacent to the land acquired, being Survey No.4/4. It is further their case that the said sale deed came to their knowledge after 20.6.2002. On behalf of the appellant,

learned Counsel opposes production of the said document on the ground that the respondents have failed to make out a case within the meaning of Order 41, Rule 27 of the C.P.C. and, in these circumstances, the additional evidence should not be permitted.

3. Heard learned Counsel for the parties. In the instant case, the acquisition is by a public body. The averments in paragraph 4 though not specific, would mean that the said document was not within the knowledge of the respondent. Hence it would fall within the predicates of Order 41, Rule 27 of C.P.C. Considering that I am inclined to permit the respondent to produce the said additional sale deed dated 16.12.1980 in respect of Survey No.4/4.

4. Having allowed the same to be taken on record, the question would be whether the matter should be remitted to the reference Court for recording the evidence and remitting the evidence back to this Court and/or set aside the order in appeal and remand the matter to the reference Court.

On behalf of the appellant, the learned Counsel contends that in respect of the adjacent land, the reference Court has awarded Rs.100/- per sq. metre and considering that the ends of justice would be properly

met if the impugned Award dated 20.6.2002 is set aside and the matter is remanded to the reference Court to permit the respondent herein to produce the sale deed and/or additional evidence, if any, and permit the appellant herein to lead additional evidence, which the appellant may intend, including the Awards passed by the reference Court in other proceedings. It is needless to say that all the documents will be subject to proof.

Considering that the reference is of the year 1996, the reference Court is directed to disposed of the matter on or before 31/03/2004. The award is set aside and the matter is remanded to the reference Court to dispose of the same according to law and in the light of what is stated in the Judgment. There shall be no order as to costs. Appeal and the Misc. Civil Application disposed of accordingly.

F.I. REBELLO, J.

ssm.